FISCAL NOTE

Bill #:	SB0514	**Title:**	Property tax treatment of clean power generation
Primary Sponsor:	Jim Elliott	**Status:**	As Amended in Senate Committee

Sponsor signature Date David Ewer, Budget Director Date

Fiscal Summary

	FY 2006 **Difference**	FY 2007 **Difference**
Expenditures:		
General Fund	$0	$0
State Special Revenue	$0	$0
Revenue:		
General Fund	($5,447)	($626,056)
State Special Revenue	($344)	($39,541)
Net Impact on General Fund Balance:	($5,447)	($626,056)

☒	Significant Local Gov. Impact	☒	Technical Concerns
☐	Included in the Executive Budget	☒	Significant Long-Term Impacts
☐	Dedicated Revenue Form Attached	☐	Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

Department of Revenue

1. HB 514 creates a new property class 14 for “clean electric generation facilities” constructed after December 31, 2003. The only exceptions would be the existing 5-year exemption under 15-6-225, MCA, for facilities with a capacity of less than 1 megawatt. Property in the new class 14 would have a 3% tax rate.
2. The proposal also allows local government units and school districts to assess an impact fee of up to 0.5% of the cost of construction of the clean generation facility for the first three years after construction.
3. "Clean generation facilities" means any combination of a physically connected turbine or turbines, generators, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electrical energy from wind, solar energy, geothermal energy, fuel cells that do not require hydrocarbon fuel, or falling water and that are less than 10 years old based upon the time that electrical energy generation began.
4. Class 14 would include clean generation facilities of a centrally assessed electric power company, clean generation facilities owned or operated by an exempt wholesale generator, noncentrally assessed clean generation facilities owned or operated by any electrical energy producer, clean generation facilities

owned or operated by a cooperative rural electric association or a noncentrally assessed public utility, and clean generation facilities used for noncommercial purposes or exclusively for agricultural purposes, clean generation facilities of a qualifying small power production facility.

5. Class 14 would not include clean generation property that is exempt from taxation under 15-6-225, MCA. Under 15-6-225, MCA, generation facilities with nameplate capacity less than 1-megawatt using alternative renewable energy sources are exempt from taxation for five years after the generation of electricity begins.
6. 15-1-101, MCA, the statute that generally defines terms for use in connection with taxation, is amended to specify that clean generation facilities that are owned or operated by a cooperative rural electric association are not commercial property. This would maintain the status quo, under which the class 5 property owned or operated by cooperative rural electric associations is not commercial property.

Revenue

7. There is one major wind generation facility (90-180 megawatt) that is currently in the planning stage, and that is reasonably likely to be constructed and put into service within the 2006-2007 biennium. It is to be located near Judith Gap in Wheatland County. Under current law this facility would be class 13 property with a tax rate of 6%. Under this bill, this facility would be in the new class 14 and taxed at a rate of 3%.
8. For purposes of this fiscal note, it is assumed that a 180 megawatt wind generation facility will be constructed and in operation for FY 2007. The table below shows the calculation of the effect on state general fund and the university 6 mill account.

PROPOSED NEW WIND GENERATION FACILITY IN WHEATLAND COUNTY

	Current Law	Under SB514	Fiscal Impact
Nameplate Generation Capacity (megawatts)	180	180	
Market Value (first year of operation)	213,750,000	213,750,000	
Taxable Rate	6.0%	3.0%	
Taxable Value	12,825,000	6,412,500	(6,412,500)
General Fund Taxes (95 mills)	1,218,375	609,188	(609,187)
State Special Revenue Fund Taxes (University 6 mills)	76,950	38,475	(38,475)

9. Tiber Montana LLC constructed a new hydro generation facility at Tiber Dam in Liberty County in 2004. This facility, which has a nameplate generating capacity of 7.5 MW, began generating power in June, 2004. This facility would qualify for the new class 14 (taxable rate 3%). It currently is in class 13, with a taxable rate of 6%. The table below shows the calculation of the effect on state general fund and the university 6 mill account *beginning with FY 2006.*

NEW HYDRO GENERATION FACILITY AT TIBER DAM IN LIBERTY COUNTY

	Current Law	Under SB514	Fiscal Impact
Nameplate Generation Capacity (megawatts)	7.5	7.5	
Market Value (first year of operation)	1,911,200	1,911,200	
Taxable Rate	6.0%	3.0%	
Taxable Value	114,672	57,336	(57,336)
General Fund Taxes (95 mills)	10,894	5,447	(5,447)
State Special Revenue Fund Taxes (University 6 mills)	688	344	(344)

10. All property in this new class 14, except for property owned by rural electric cooperatives would be considered commercial property. The new lower tax rate will reduce the taxable rate for class 12 property (railroad and airlines) – which is the average commercial tax rate statewide.
11. The change in taxable value for the hydro dam in FY 2006 will not be significant enough to change the class 12 tax rate. However, the change in taxable value in FY 2007 is large enough to alter the class 12 tax rate.
12. In FY 2007, it is projected that the new class 14 property taxable values will reduce the projected class 12 tax rate from 3.69% to 3.68% in FY 2007. The table below shows the anticipated change in class 12 taxable value, and fiscal impacts to the general fund and the university 6 mill account.

CHANGE IN FORECAST CLASS 12 (Railroad and Airline) TAX RATE for FY2007

	Current Law	Under SB514	Fiscal Impact
Market Value	1,204,436,813	1,204,436,813	
Taxable Rate	3.69%	3.68%	
Taxable Value	44,443,718	44,323,275	(120,443)
General Fund Taxes (95 mills)	4,222,153	4,210,711	(11,442)
State Special Revenue Fund Taxes (University 6 mills)	266,662	265,940	(722)

13. In FY 2007, class 12 is projected to have a market value of $1.204 million. The change in taxable value is estimated at $120,443.
14. Due to the estimated change in class 12, the general fund would decrease by $11,442 ($120,443 x 95 mills) in FY 2007.
15. Due to the estimated change in class 12, the university 6 mill account would decrease by $722 ($120,443 x 6 mills) in FY 2007.
16. SB 514 is expected to decrease the general fund by $5,447 in FY 2006, and by $626,056 ($609,187 + $5,447 + $11,422) in FY 2007.
17. SB 514 is expected to decrease the university 6 mill account by $344 in FY 2006, and $39,541 ($38,475 + $344 + $722) in FY 2007.
18. Department of Revenue does not anticipate any additional administrative costs under the provisions of SB 514.

FISCAL IMPACT:

	FY 2006 Difference	FY 2007 Difference
Revenues:		
General Fund (01)	($5,447)	($626,056)
State Special Revenue (02)	($344)	($39,541)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):		
General Fund (01)	($5,447)	($626,056)
State Special Revenue (02)	($344)	($39,541)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
Local governments and schools tax base would be reduced from facilities that would have been built under the current tax structure with current tax rates. Local governments, including schools will be allowed to impose an impact fee of 0.5% during the first three years a facility produces generation. These monies may be expanded for any purpose allowed by law.

Assuming the aforementioned large facility located near Judith Gap in Wheatland County would have been built without SB 514, with estimated local levies of 329 mills, local taxing jurisdictions could lose up to $2.1 million in local tax revenues in FY 2007 (taxable value reduction of $6.41 million x 329 mills). However, if the county chose to levy an impact fee of 0.5%, the impact fee would generate approximately $1 million ($213.750 million x 0.5%) each year, for up to three years.

Liberty County, with the Tiber dam moving into the new class 14, with estimated local levies of 350 mills, could lose up to $20,067 in local tax revenues in each of FY 2006 and FY 2007 (Taxable value reduction $57,336 x 350 mills).

LONG-RANGE IMPACTS:
This bill could have significant long-range impacts. Revenue will be lost from facilities that would have been built under the current tax structure with current tax rates. In addition, property in this new class 14, except for property owned by rural electric cooperatives, would be considered commercial property and would be included in the class 12 tax rate calculation. The new lower rate would reduce the taxable rate for class 12 property (railroad and airlines).

TECHNICAL NOTES:
1. In order to be considered a clean generation facility, the facility must be "less than 10 years old based upon the time that electrical energy generation began." Currently there are businesses that are acquiring wind generation equipment that was originally manufactured more than 10 years ago, refurbishing this equipment, and incorporating this equipment into new wind generation facilities. Would this equipment be considered less than 10 years old?
2. The proposal includes coordination language that voids SB 115. SB 115 would create a new class of property made up exclusively of all wind generation facilities. The only exceptions would be the existing 5-year exemption for wind facilities with a capacity of less than 1 megawatt, and the exemption of wind generation facilities owned and used by federal, state and local government entities. The tax rate for this new class would be 1.5% of market value.